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**AUG 04 2005**

**OFFICE OF PETITIONS**

In re Application of :  
Tuan Nguyen, et. al. :  
Application No. 10/695,888 : **ON PETITION**  
Filed: October 28, 2003 :  
Attorney Docket No. 00121-000800000 :

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on March 2, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed June 2, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight August 2, 2004.

In response to the Notice to File Corrected Application Papers, petitioner submitted an authorization to charge \$1,330 for the petition to revive fee, \$65 for a late filing surcharge, nine (9) sheets of replacement drawings containing Figures 1-9, and the statement of unintentional delay.

Since the petition contains an assertion that this application is other than small entity, status as a small entity has been removed and the petition fee will be charged as a large entity. If this is an incorrect interpretation, than petitioner must notify the Office immediately.

Petitioner should note that effective December 8, 2004, the large entity unintentional petition to revive fee was increased to \$1,500 and the large entity surcharge for the late filing fee or oath is \$130. Since the Notice did not require petitioner to submit a surcharge for the late filing, this fee is unnecessary and will not be charged to petitioner's deposit account.

The petition is **dismissed**.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee required by 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (2) above.

With respect to item (2), the deposit account listed in the petition contains insufficient funds. Therefore, petitioner must submit \$1,500 for the petition fee before this application can be revived.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is not a final agency decision.

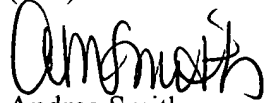
Further correspondence with respect to this matter should be addressed as follows:

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Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.



Andrea Smith  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

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